

Arent Fox LLP, New York, NY / Washington, DC / Los Angeles, CA

# Arent Fox

July 1, 2008

## By Federal Express

The Honorable Lewis A. Kaplan  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 1310  
New York, New York 10007

## MEMO ENDORSED

**David J. Pfeffer**

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Re: H. Thomas O'Hara Architect, PLLC and H. Thomas O'Hara v. Extell West 45th Street LLC, Extell West 45th LLC, and Extell Development Company  
(Civil Action No. 07 CV 11224)

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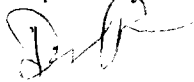
Dear Judge Kaplan:

We represent the Plaintiffs, H. Thomas O'Hara Architect, PLLC and H. Thomas O'Hara, in the above-referenced action. I write to you on behalf of counsel to both Plaintiffs and Defendants Extell West 45<sup>th</sup> Street LLC, Extell West 45<sup>th</sup> LLC, and Extell Development Company, concerning Plaintiffs' Motion for Partial Summary Judgment (the "Motion"), which motion was filed on June 17, 2008.

The parties have conferred and respectfully request that Your Honor hold the Motion in abeyance so that the parties may conduct a mediation of all claims in the litigation. In furtherance of the parties' proposal, we respectfully request that Your Honor also enter an Order or otherwise grant permission for the parties to conduct such a mediation before The Honorable Magistrate James C. Francis.

Please contact myself or Alvin Lin, attorney for Defendants, should you have any questions.

Respectfully submitted,



David J. Pfeffer (DJP-1317)

cc: Alvin C. Lin, Esq., (212-735-8873)  
Y. David Scharf, Esq.  
(Attorneys for Defendants)

Kevin O'Neill, Esq.

The Honorable James C. Francis

**MEMO ENDORSED**  
*Motion denied without prejudice to renewal if settlement fails. Referred to Judge Francis for settlement.*

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*THE J. JOSEPH*